

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

BILLY J. CALLAHAN
Claimant

VS.

SEDGWICK COUNTY
Respondent
Self-Insured

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Docket No. 195,363

ORDER

Claimant requested review of the Award dated July 30, 1996, entered by Administrative Law Judge John D. Clark. The Appeals Board heard oral argument on April 9, 1997, in Wichita, Kansas.

APPEARANCES

Cortland Q. Clotfelter of Wichita, Kansas, appeared on behalf of the claimant.
E. L. Lee Kinch of Wichita, Kansas, appeared on behalf of the respondent.

RECORD AND STIPULATIONS

The record considered by the Appeals Board and the parties stipulations are listed in the Award. Also, at oral argument the parties stipulated claimant's average weekly wage on the date of accident was \$599.75.

ISSUES

The Administrative Law Judge denied claimant's request for permanent partial disability benefits because the judge found claimant did not prove the September 12, 1994, accident caused permanent injury or impairment. Claimant requested the Appeals Board to review that finding. The issues before the Appeals Board on this review are: (1) nature and extent of injury and disability and (2) whether claimant is entitled to future medical benefits.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the entire record, the Appeals Board finds as follows:

The Award entered by the Administrative Law Judge should be affirmed.

The Appeals Board agrees with the Administrative Law Judge's analysis and conclusion that claimant failed to prove he sustained permanent injury as a result of his work-related accident of September 12, 1994. That conclusion is supported by the greater weight of the medical evidence, including the testimony of both board-certified orthopedic surgeon Robert A. Rawcliffe, Jr., M.D., and Ernest R. Schlachter, M.D. The Administrative Law Judge selected Dr. Schlachter to perform an independent medical evaluation. Therefore, Dr. Schlachter was seemingly an unbiased expert disinterested in the outcome of this litigation.

The Appeals Board finds it is more probably true than not true that claimant's ongoing symptoms are caused by claimant's serious nonwork-related health problems which include cerebral infarct and possibly Behcet's syndrome, a rare and severe autoimmune disease.

Because claimant has failed to prove he sustained permanent injury as a result of the September 1994 incident, claimant is denied future medical benefits.

The Appeals Board hereby adopts the Administrative Law Judge's findings and conclusions as its own to the extent they are not inconsistent with the above.

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Award dated July 30, 1996, entered by Administrative Law Judge John D. Clark should be, and hereby is, affirmed.

IT IS SO ORDERED.

Dated this ____ day of May 1997.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Cortland Q. Clotfelter, Wichita, KS
E. L. Lee Kinch, Wichita, KS
John D. Clark, Administrative Law Judge
Philip S. Harness, Director